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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,894	08/21/2001	Isamu Suzuki	F-11380	6424

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EXAMINER

POND, ROBERT M

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/932,894

Applicant(s)

SUZUKI, ISAMU

Examiner

Robert M. Pond

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The Applicant newly added claims 5-7. All pending claims (1-7) were examined in this final office action necessitated by amendment.

Response to Arguments

Applicant's arguments filed 25 July 2005 have been fully considered but they are not persuasive. Hall discloses a list (as admitted by the applicant) and discloses narrowing search criteria to make the shopping experience more relevant and useful. Searched services are searched and narrowed based on criteria. A customer can base decisions on cost of a particular supplier.

Please note: apparatus claims containing "wherein" clauses are attempting to define what the structural elements are capable of performing and thereby constitute functional limitations. The Examiner believes the functional limitation can be performed by the prior art structure comprising a network of computers used for shopping services. See *In re Swinehart*, 169 USPQ 226 (CCPA 1971); *In re Schreiber*, 44 USPQ2d 1429 (Fed. Cir. 1997). Should the Applicant respond to this office action, the Examiner is suggesting to the Applicant to consider method claims in addition to system claims to distinctly claim the Applicant's subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. **Claims 1-7 are rejected under 35 USC 102(b) as being anticipated by Hall et al. (Paper # 20050309, US 6,026,375, hereinafter referred to as “Hall”).**

Hall teaches all the limitations of Claims 1-7. For example, Hall discloses a shopping assistance service system for wireless mobile customer to submit inquiries regarding the availability of specified goods or services from suppliers, restaurants, or other retailers determined to be local to the mobile customer using tracking or geographic positioning means (see at least abstract; col. 2, line 40 through col. 4, line 49). Hall further discloses:

- *A plurality of dealer terminals:* restaurants or suppliers with computer terminals connected to the commerce service (see at least Fig. 3 (172, 174, 176); col. 7, line 38 through col. 8, line 42).
- *An information retrieval service:* (see at least Fig. 1 (150); Fig. 3 (150); col. 5, line 36 through col. 6, line 43).

- A plurality of user terminals requesting information retrieval: wireless mobile users (see at least Fig. 1 (100, 105); col. 5, line 36 through col. 6, line 43).
- Narrowing search; transmission range: searches conducted based on location of mobile user with respect to locations in proximity to mobile user; system determines local facility based on mobile user location information; Hall inherently discloses the structure that permits the narrowing of a search (e.g. location of mobile customer in proximity to suppliers) (see at least abstract; col. 5, lines 20-28).
- Cost: Inherent in the Hall are the structures necessary to permit the customer to determine cost of any dealer and make purchase decision based on cost. For example, customer receives cost information pertaining to a particular supplier and can reject service based on cost or other factors and cancel the request (see at least col. 9, lines 51-55).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 703-605-4253. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. M. Pond', written in a cursive style.

Robert M. Pond
Primary Examiner
October 13, 2005